

Dated _____ 2018

(1) **THE CHANCELLOR, MASTERS AND SCHOLARS
OF THE UNIVERSITY OF CAMBRIDGE**

(2) [.....]

**UNIVERSITY OF CAMBRIDGE
RESEARCH COLLABORATION AGREEMENT**

THIS AGREEMENT dated 20[17] is made **BETWEEN:**

- (1) **THE CHANCELLOR, MASTERS AND SCHOLARS OF THE UNIVERSITY OF CAMBRIDGE** of The Old Schools, Trinity Lane, Cambridge, CB2 1TN (the "University"); and
- (2) [.....] [**LIMITED**], a company registered in [England] under number [.....], whose registered office is at [.....] ("the Sponsor")

BACKGROUND

- A) The University and the Sponsor wish to work together for mutual benefit on the research project within the University of Cambridge EPSRC Centre for Doctoral Training in Analysis ('the CDT Program'), as described below.
- B) The University is a charity strongly committed to publication and commercialisation of its research. Research findings are published, subject to the removal of Sponsor Confidential Information and the filing of registerable rights where appropriate.
- C) The University is willing to grant the Sponsor early access to unpublished Results and an option to take an exclusive licence of any Intellectual Property in those Results.
- D) Until Published, Results are University Confidential Information.

1. DEFINITIONS

In this Agreement the following expressions have the meaning set opposite:

Agreement:	this document, including its Schedules, as amended from time to time in by agreement of the Parties;
Background:	information, techniques, data, results, design, technology, materials, inventions and software (regardless of the form or medium in which they are disclosed or stored) and any Intellectual Property whenever provided by one party to the other for use in the Project, and limited in the case of the University to Background of any Key Personnel; for the avoidance of doubt Background is distinct from and is not part of any Result;
Business Day:	Monday to Friday (inclusive) except bank or public holidays in England;
Confidential Information:	Any Background identified as confidential; Results are University Confidential Information until publication by the University;
Effective Date:	[<i>insert date the Project starts</i>];
End Date:	[<i>insert date</i>] or until any later date agreed in writing between the parties;

Indemnified Parties:	the University and its Key Personnel, staff and students;
Intellectual Property:	patents, trademarks, service marks, registered designs, copyrights, database rights, design rights, applications for any of the above, and any similar right recognised from time to time in any jurisdiction, together with all rights of action in relation to the infringement of any of the above;
Key Personnel:	the Principal Investigator, the Student, and any other key personnel for either party identified in Schedule 1;
Negotiation Period:	90 days beginning on the date of the Option Notice served by the Sponsor;
Option Notice:	a written option notice served by the Sponsor on the University during the Option Period;
Option Period:	for each Result is 3 months beginning on the date of the report notifying the Result;
Principal Investigator:	[<i>insert name</i>] or his or her successor as appointed under clause 8.2;
Project:	the programme of work described in Schedule 1, as amended from time to time in accordance with the Agreement, to be conducted within the University's Department of Applied Mathematics and Theoretical Physics and its CCA Centre for Doctor Training;
Project Period:	the period described in clause 2.1;
Results:	all information, techniques, data, results, design, technology, materials, inventions and software identified or first reduced to practice or writing in the course of undertaking the Project;
Student	The CDT student who will perform the investigation required by the Project.
University's Nominee:	the University's wholly owned technology transfer company which at the Effective Date is Cambridge Enterprise Limited.

2. THE PROJECT

- 2.1. This Agreement takes effect on the Effective Date and will continue until the End Date unless terminated earlier.
- 2.2. The Parties will perform their respective tasks in Schedule 1. The Project will be carried out under the direction of the Principal Investigator.

- 2.3. Each party will use all reasonable endeavours to obtain all necessary regulatory and ethical licences, consents and approvals required in relation to its tasks.
- 2.4. Each party will ensure that its employees and the Student observe the conditions attached to any regulatory and ethical licences, consents and approvals.
- 2.5. The University does not undertake that any research will lead to any particular result, nor guarantee a successful outcome to the Project.
- 2.6. The University will provide the Sponsor with a copy of all Results in the form of the Student's final Project thesis.
- 2.7. Each party warrants to the other that it has full power and authority under its constitution, and has taken all necessary actions and obtained all necessary authorisations, licences, and consents to perform this Agreement.

3. USE AND EXPLOITATION OF INTELLECTUAL PROPERTY

- 3.1. This Agreement does not affect the ownership of any Background or any other information, techniques, data, results, design, technology, materials, inventions or software that are not Results. The Background will remain the property of the party that contributes it to the Project (or its licensors).

No licence to use or sub-license any Intellectual Property, Background or Results is granted or implied except the rights expressly granted in this Agreement. All rights not expressly granted are reserved to the rights holder.

- 3.2. Each party grants the other a royalty-free, non-exclusive licence to use its Background for the purpose of carrying out the Project, but for no other purpose.
- 3.3. The University will own the Results and all Intellectual Property in them.
- 3.4. Within two (2) months of the completion of the Project, the University will provide to the Sponsor a final written report setting out the Results of the research and the University's analysis of those Results, any IP generated, discovered and/or reduced to practice; and any know-how or background IP necessary to the use of the Results ("the Final Report").
 - 3.4.1 Within Thirty (30) days of the date of delivery of the Final Report, the Sponsor shall:
 - 3.4.2 Exercise a right-of-first-refusal to acquire the rights to any Foreground IP, which includes: (1) a right to patent any such inventions, subject to the terms and conditions of clause 2; (2) the right to negotiate a license for the use of any Background IP necessary to the use of that Foreground. Such rights will be transferred under a license, exclusive or non-exclusive as agreed to by the parties, shall be negotiated on commercially fair and reasonable terms.

- 3.4.3 provide written consent to the use of the Results for the purposes set out in Clause 4, or reasonably request that the University delay or amend the proposed use of the Results for the purpose of enabling the removal of the Sponsor's Confidential Information from the Results or to enable a patent application to be filed regarding any inventive step which is incorporated into, taken into use by or disclosed (in whole or in part) in those Results.
- 3.5 The Sponsor acknowledges and agrees that despite the grant of any rights under this Agreement, the University and each employee and student of the University will retain the irrevocable, royalty-free right to use the Results for the purposes of academic teaching, publication and academic research, including without limitation as background intellectual property for any academic research project (whether commercially or internally funded research, or research pursuant to EC, government or other public or charitable research funding) and to license other institutions for these purposes. The right to publish in this clause is subject to clause 4.

4. PUBLICATION

- 4.1. The Sponsor may not publish any Result prior to publication by the University, without the University's prior written consent.
- 4.2. It is the intent of the Program that the project results shall be shared within the CDT Program in both written and verbal form. With regard to publication outside the University, the University will give to the Sponsor written details of any Results and any Sponsor's Background that any University employee or student intends to publish outside the University, at least 30 days before the proposed submission date. Within 14 days beginning on the date of the University notice the Sponsor may give written notice requiring the University to delay publication for a maximum of 3 months to enable filing for a patent or similar protection, or removal of the Sponsor's Confidential Information specified in its notice. For the avoidance of doubt, notification is not required for University teaching or internal meetings.
- 4.3. Provided a notice has not been given under clause 4.2, any employee or student of the University (whether or not involved in the Project) may, publish any of the Results.
- 4.4. Nothing in this Agreement will prevent submission, University examination or deposit in a University library of a thesis based on any of the Results. The University will notify the Sponsor at least 30 days before the thesis is to be submitted. Within 14 days beginning on the date of the University's notice the Sponsor may, request in writing that external examiners sign confidentiality undertakings in respect of any Sponsor Confidential Information or to enable filing for patent protection. If the Sponsor does not so request within that period or, if so requested the University obtains signed confidentiality undertakings, examination of the thesis may proceed.
- 4.5. In connection with Project, there are regular presentations of student project results to sponsors of the Centre for Doctoral Training (CDT). The Sponsor understands that these presentations are an important part of the research process, and a distinct mechanism for sponsor involvement in the CDT. As such, the Sponsor shall not limit the presentation of this or other student projects in

the CDT forum, provided that the student presentation shall conform to the requirements of Clause 5 below.

5. CONFIDENTIALITY

- 5.1. Subject to clauses 3 and 4, neither party will, either during the Project or for 3 years after its end, disclose to any third party, nor use for any purpose (other than as expressly provided under this Agreement) any of the other party's Confidential Information without prior written consent.
- 5.2. Neither party will be in breach of any obligation to keep any Confidential Information confidential to the extent that it:
 - 5.2.1. was known to the party making the disclosure before its receipt from the other party, and was not then already subject to any obligation of confidentiality to the other party;
 - 5.2.2. is or becomes publicly known without any breach of this Agreement or any other undertaking to keep it confidential;
 - 5.2.3. has been obtained by the party making the disclosure from a third party who had no reason to believe that there had been a breach of an obligation of confidentiality owed to the other party;
 - 5.2.4. has been independently developed by the party making the disclosure;] or
 - 5.2.5. must be disclosed by law or order of court or competent authority (including without limitation under the Freedom of Information Act 2000), provided in all cases the other party is notified as early as possible prior to disclosure.
- 5.3. The University will not be in breach of this clause 5, by publishing in compliance with clause 4.
- 5.4. The Sponsor will not be in breach of this clause 5 by exercising any right expressly granted by this Agreement provided the recipient undertakes to keep the disclosed information confidential.
- 5.5. The Sponsor will respond within 5 Business Days beginning on the date of a University request for information in relation to a statutory exemption under clause 5.2.
- 5.6. Neither party will use the other's name or logo or the name of any of the Key Personnel in any marketing or other publication, without first obtaining the other's written consent.
- 5.7. The obligations in this clause 5 supersede any confidentiality or non-disclosure agreement signed by the parties which relates to the work to be undertaken in the Project.

6. LIMITATION OF LIABILITY

- 6.1. The Sponsor acknowledges and agrees that the Project is of an experimental and developmental nature. Neither of the parties makes any representation or gives any warranty to the other that any advice or information given by it or any of its employees or students who work on the Project, or the content or use of any Results, Background, or materials, works or information provided, will not constitute or result in any infringement of third-party rights.
- 6.2. The express undertakings and warranties given by the parties in this Agreement are in lieu of all other warranties, conditions, terms, undertakings and obligations, whether express or implied by statute, common law, custom, trade usage, course of dealing or in any other way. All of these are excluded to the fullest extent permitted by law.
- 6.3. Nothing in this Agreement limits or excludes either party's liability for death or personal injury or any fraud or for any sort of liability that, by law, cannot be limited or excluded.
- 6.4. The liability of either party to the other and any of the Indemnified Parties to the Sponsor for any breach of this Agreement or negligence or arising in any other way out of the subject matter of this Agreement, the Project, the Results, or Background, will not extend to any indirect damages or losses; or to any loss of profits, data, loss of contracts or opportunity, whether direct or indirect, even if the party bringing the claim has advised the other of the possibility of those losses, or if they were within the other party's contemplation.
- 6.5. The aggregate liability of the University, including the liability of the Indemnified Parties, for all and any breaches of this Agreement, any negligence, or arising in any other way out of the subject matter of this Agreement, the Project, the Results and Background, shall not exceed in total any financial contribution received from the sponsor under this Agreement.
- 6.6. Notwithstanding anything else in this Agreement the Sponsor will indemnify the Indemnified Parties in full against third party claims or judgements (including without limitation in contract, tort, negligence or for breach of statutory duty or misrepresentation) which relate to or arise from the University's use of the Sponsor's Background or the Sponsor's (or that of any sub-licensee pursuant to clause 4.5) use of or reliance on any of the Results, associated advice or information or an Indemnified Party's Background provided that the University:
 - 6.6.1. promptly notifies the Sponsor of details of the claim;
 - 6.6.2. does not make any admission in relation to the claim;
 - 6.6.3. allows the Sponsor to have the conduct of the defence or settlement of the claim [providing the Sponsor takes into account the University's reasonable representations about the conduct or settlement]; and
 - 6.6.4. gives the Sponsor all reasonable assistance (at the Sponsor's expense) in dealing with the claim.

The indemnity in this clause will not apply to the extent that the claim arises as a result of an Indemnified Party's deliberate breach of this Agreement or its knowing infringement of any third party's Intellectual Property.

7. FORCE MAJEURE

Neither party will be liable for any failure or delay due to circumstances beyond its reasonable control (except a payment obligation) but must notify the other party promptly. If the delay in performance is more than 6 months, the other party may terminate this Agreement with immediate effect by giving written notice.

8. TERMINATION

8.1 Either party may terminate this Agreement with immediate effect by giving written notice to the other party if the other party is in material breach and, if the breach is remediable, has failed to remedy within 60 days of being required to do so in writing.

8.2 Each of the parties will notify the other promptly if at any time any of its Key Personnel is unable or unwilling to continue to be involved in the Project. If a successor has not been appointed within 3 months beginning on the date of that notice, either party may terminate this Agreement by then giving the other not less than 3 months' notice.

8.3 Clauses 1, 4 (subject to clause 8.3), 5, 6, 7, 8, 9.3, 9.4, 9.5 and 9.10 will survive the expiry of the Project Period or the termination of this Agreement for any reason and will continue indefinitely.

8.4 If the University terminates this Agreement under clause 8.1, clause 3 shall not survive termination nor shall any Option Notices which have been served even if the Negotiation Period has not yet expired.

9. GENERAL

9.2 **Notices:** Any notice to be given under this Agreement must be in writing, and may only be delivered as follows:

Method of service	Deemed day of receipt
By hand or courier	the day of delivery
By pre-paid first class post	the second Business Day after posting
By recorded delivery post	the next Business Day after posting
By fax (provided the sender's fax machine confirms complete and error-free transmission of that notice to the correct fax number)	the next Business Day after sending or, if sent before 16.00 (sender's local time) on the Business Day it was sent

The parties' respective representatives for the receipt of notices are, until changed by notice given in accordance with this clause, as follows:

For the University:	For the Sponsor:
Asst. Director, School of Physical Sciences Research Operations Office, University of Cambridge, 16 Mill Lane, Cambridge CB2 1SB. Fax number 01223 332988 Notices are to be copied to the Principal Investigator	

- 9.3. **Assignment** Neither party may assign or transfer this Agreement, or any of its rights or obligations under it, without the other party's prior written consent, not to be unreasonably withheld or delayed, (except that the University may assign the Results, including the Intellectual Property in any of the Results, to the University's Nominee).
- 9.4. **Illegal/unenforceable provisions:** If the whole or any part of any provision of this Agreement is void or unenforceable in any jurisdiction, the other provisions of this Agreement, and the rest of the void or unenforceable provision, will continue in force in that jurisdiction, and the validity and enforceability of that provision in any other jurisdiction will not be affected.
- 9.5. **Waiver or Variation:** A provision of this Agreement or any right created under it cannot be waived or varied or amended except by the parties' written agreement.
- 9.6. **No agency:** Nothing in this Agreement creates, implies or evidences any partnership or joint venture between the parties, or the relationship between them of principal and agent. Neither party has any authority to make any representation or commitment, or to incur any liability, on behalf of the other.
- 9.7. **Entire agreement:** This Agreement constitutes the entire agreement between the parties relating to its subject matter. Each party acknowledges that it has not entered into this Agreement on the basis of any warranty, representation, statement, agreement or undertaking except those expressly set out in this Agreement. However, this clause does not exclude any liability in respect of any fraudulent misrepresentation.
- 9.8. **Third parties** The Indemnified Parties may enforce those terms of this Agreement which expressly confer rights on them, subject to and in accordance with the Contracts (Rights of Third Parties) Act 1999. Save as aforesaid no term of this Agreement shall be enforceable under that Act by a person who is not a party to this Agreement, but this shall not affect any right or remedy of any third party which exists or is available other than under that Act. Notwithstanding that any term of this Agreement may be or become enforceable under that Act by a person which is not a party to it, this Agreement may be amended in any respect, or suspended, cancelled or terminated by agreement in writing between the parties, in each case without the consent of such third party.

- 9.9. **Governing law:** This Agreement is governed by, and is to be construed in accordance with, English law. The English Courts will have exclusive jurisdiction to deal with any dispute which has arisen or may arise out of, or in connection with, this Agreement, except that either party may bring proceedings for an injunction in any jurisdiction.
- 9.10. **Escalation:** Either party may refer a dispute by written notice to the other for joint resolution by the Head of the Research Operations Office, and [*insert Sponsor officer*] or their nominees. Either party may litigate if the matter has not been resolved within 14 days, beginning on the date of such notice. Either party may apply for an injunction, whether or not any issue has been escalated under this clause.
- 9.11. **Further Assurance:** Each party shall use all reasonable endeavours to do or procure to be done all further acts and execute or procure the execution and delivery of all other documents as the other party may from time to time reasonably require for the purposes of giving that party the full benefit of its rights under this Agreement.

SIGNED for and on behalf of the **SIGNED** for and on behalf of the Sponsor:
University:

Name

Name

Position

Position

Signature

Signature

Read and understood by the Principal Investigator

.....
Signature

SCHEDULE 1

The Project

1. Description

[Include tasks to be performed by each party and any party milestones]

2. University Key Personnel

[Sponsor Key Personnel]

[It may be useful to name a Sponsor Representative, so that it is clear who the University should liaise with in relation to the Project.]

Students participating in the Project

3. Sub-Contracting: as necessary by the University, including the right to license Background for the purpose of carrying out the Project, but for no other purpose.

[Sub-contracting as necessary by the Sponsor to Group Companies including the right to license Background for the purpose of carrying out the Project, but for no other purpose.]

4. Project Management

project manager(s)
project meetings:

5. Facilities to be provided by each party

Equipment to be provided by each party

6. Open Source Code

[The Results may include][The University shall use its reasonable endeavours not knowingly to include] code which is licensed on the basis that any derivative works must be redistributable under the same licence.

7. Sponsor Background

University Background (provided it is at the free disposal of the University)

Third party Background